

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

v.

MOTOROLA INC., et al.,

Defendants.

MOTOROLA MOBILITY, INC., et  
al.,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant.

CASE NO. C10-1823JLR

ORDER

1 The court directs the parties to be prepared to address the following issues at the  
2 April 11, 2012 hearing on Microsoft Corporation's ("Microsoft") Motion for a  
3 Temporary Restraining Order ("Microsoft's Motion") (Dkt. # 209):

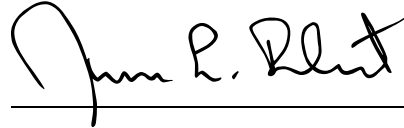
4 1. Microsoft is seeking an anti-suit injunction. The court finds that in the  
5 Ninth Circuit, the issuance of an anti-suit injunction, per Microsoft's Motion, is governed  
6 by *E. & J. Gallo Winery v. Andina Licores S.A.*, 446 F.3d 984 (9th Cir. 2006). If  
7 Microsoft or Motorola Inc., Motorola Mobility, Inc., and General Instrument Corporation  
8 (collectively, "Motorola") disagrees that *E. & J. Gallo* is the proper authority, explain  
9 why and provide the court with alternative authority.

10 2. Regarding the German action, for which Microsoft seeks an anti-suit  
11 injunction:

- 12 a. What is the present status of the case?
- 13 b. Who are the parties to the litigation?
- 14 c. What overlap exists between the technology covered by the patents  
15 at issue in the German Action and the technology covered by the  
16 patents at issue in Cause No. C10-1823JLR, presently before this  
17 court.
- 18 d. Are the patents at issue in the German Action subject to an Institute  
19 of Electrical and Electronics Engineers ("IEEE") agreement, an  
20 International Telecommunication Union ("ITU") agreement, or any  
21 other agreement, and/or a reasonable and non-discriminatory license  
22 requirement?
- e. What issues are presently before the German court, and are these  
issues the same issues presently before this court in Cause No. C10-  
1823JLR?

- 1 f. What impact would this court's ruling on any issues remaining in  
2 Cause No. C-1823JLR have on issues currently pending in the  
3 German Action?
- 4 g. What affect would/could the German Action have on the two  
5 RAND issues that remain before this court following the court's  
6 order on Microsoft's motion for partial summary judgment (Dkt.  
7 # 188)?
- 8 h. Pursuant to the German "Orange Book" procedures, what reasonable  
9 steps may Microsoft take to postpone an injunction in Germany?

10 Dated this 10th day of April, 2012.

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12 The Honorable James L. Robart  
13 U.S. District Court Judge  
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